

Report to the Governor and General Assembly

Iowa Environmental Protection Commission

January, 2007

Pursuant to Code of Iowa §455B.105(5), the Iowa Environmental Protection Commission (Commission) submits the following report to Governor Culver and the Iowa General Assembly. As specified in the statute, this report discusses the accomplishments and status of the programs administered by the Environmental Services Division of the Department of Natural Resources. Specifically, the report will make legislative recommendations for consideration by the Governor and General Assembly based on Commission observations regarding the state of the environment in the past year. The report also takes into account comments and concerns the Commission frequently hears from Iowa citizens.

In issuing this report and making these recommendations, the Commission encourages the Governor and General Assembly to continue to consider Iowa's natural resources and the protection thereof when developing statewide policies for economic development in Iowa. The Commission believes that protection of the environment is consistent with the development of a strong and sustainable Iowa economy.

Environmental Accomplishments in 2006

Working with industry, environmental groups, and other stakeholders, the Commission furthered its mission of protecting Iowa's environment through several major rule developments, including the proposed lowering of the manure-nitrogen rate allowed to be applied to fields going to soybeans, with a ban after 5 years unless scientific data become available to support an environmentally sound manure-nitrogen rate; water quality standards that protect surface water in Iowa at the highest quality level; the clean air interstate (CAIR) and clean air mercury (CAMR) rules that will improve Iowa's air quality from stationary sources, specifically addressing contaminants that are harmful to human health; and the Department Evaluation rule that allows the DNR to consider additional environmental impacts in determining whether an animal feeding operation will receive an approved permit or manure management plan for their proposed operations.

At the direction of the legislature, DNR continues to assess Iowa's rivers and streams to define the appropriate level of protection to be incorporated into the wastewater discharge permits issued throughout the State to municipalities and businesses. These assessments were required in the passage of the recent water quality standards law and were specifically called out and funded to ensure that Iowa wastewater dischargers received permits with the appropriate limitations to protect water quality.

Solid waste and recycling operations will be required to demonstrate financial capability to close the operation at the end of life under a rule passed recently by the EPC. This rule will help protect Iowa's environment from abandoned operations that previously managed solid waste and/or recyclable materials.

Another rulemaking implements the Legislature's requirement for minimum recycling goals for mercury switches from automobiles.

Enforcement improvements this year include requiring wastewater (NPDES) permitting for concentrated animal feeding operations (CAFOs) that have discharged to surface waters. Such discharges are prohibited by the U.S. Clean Water Act. This action levels the playing field among businesses in Iowa. Another noticeable improvement in enforcement is the increased collection of fines for violation of DNR rules.

The Commission recognizes and commends the DNR on completing several Lean Kaizen events that have resulted in administrative streamlining for DNR customers. These efficiencies have also resulted in efficiencies for DNR staff, resulting in their ability to handle larger workloads with the same scarce resources.

State Water Use Planning

A State Water Plan was mandated by the 1957 Legislature. The only complete State Water Plan was and presented to the General Assembly in 1978. An update of the plan was submitted in January, 1985. The current surge in ethanol production has once again brought to public attention the issue of water availability and the allocation thereof. In addition, water and water habitat quality (collectively, water quality) are continuing concerns in Iowa and need to be assessed with plans developed and implemented to achieve improvements.

The Commission asks the General Assembly to authorize and provide resources to accomplish a new State Water Plan. The plan should describe the quantity available and quality of surface and groundwater in Iowa; estimate present and future water use needs; develop conservation and allocation methods; and include a means to implement the plan. Finally, the Commission asks the General Assembly to include a provision for periodic updates of all elements of the State Water Plan.

Enforcement of Existing Laws and Rules

The need for stronger enforcement of environmental laws and regulations is a continuing theme from Iowa's citizens. Iowans seeking stronger environmental protection become discouraged when laws on the books are not followed. Iowans under a duty to comply with environmental laws and regulations receive mixed messages when those same laws are not implemented and enforced. Some examples of common situations include:

1. The open feedlot law recently passed by the General Assembly did not include any provisions for staff or resources to implement or enforce the law.
2. Permit applications and manure management plans are filed but the Department does not have the staff needed to review them for legal compliance. Applicants

are left with the impression that the filings are sufficient under the law when in fact they may not be.

3. Dumping and other environmental violations occur throughout Iowa but the Department does not have sufficient staff in the field to adequately police these violations. In the past year, the Commission has heard citizens comment regarding the illegal disposal of de-manufactured appliances, septic field waste, tires and issues related to illegal burning and burial of waste materials.

The Commission believes that additional resources are necessary to fully implement and enforce existing environmental laws and regulations, and asks the Governor and General Assembly to provide those resources.

Confinement Animal Feeding Operations

The livestock industry is an important part of Iowa's economy. The Commission remains committed to working with the livestock industry in developing regulations that protect the environment while recognizing the industry's legitimate needs and concerns. However, the Commission is frequently asked to resolve disputes related to confinement animal feeding operations. In most cases, the Commission has little or no authority to provide a remedy for such disputes. Some examples of common situations include:

1. Appeals from county Boards of Supervisors formally objecting to the siting of specific confinement facilities for a variety of local quality of life, environmental and economic reasons. Supervisors commonly argue that the current system lacks adequate safeguards and standards for proper siting of confinement facilities.
2. Citizens concerned that confinement facilities are located too close to their residences, compromising their health, quality of life and property value.
3. Citizens concerned that manure is being spread too close to their residences, compromising their health and quality of life.

The current laws and regulations for confinement animal feeding operations are not working well for many Iowa citizens, county governments, or even for owners of confinement facilities. Confinement owners often find themselves embroiled in controversy even when they follow the law. The Commission believes the following modifications to the Iowa code would help reduce conflict:

1. Give counties authority for meaningful decision-making regarding siting of new confinement animal feeding operations.
2. Reduce the animal threshold size requirement for a confinement construction permit.

3. Evaluate the current required separation distances of confinement facilities from buildings and public use areas.
4. Require a separation distance from buildings and public use areas for applying liquid manure when it is injected or incorporated into the soil within 24 hours.

The Commission remains concerned about the levels of bacteria, nitrogen and phosphorous in Iowa's surface and ground waters from non-point sources. These non-point sources are largely agricultural. While no immediate legislative action is requested, the state should remain vigilant. The Commission urges the Governor and General Assembly to support research regarding the long term effects of nutrients on agricultural land.

Bio-fuels

The continuing development of the bio-fuels industry remains important to Iowa's economy and to meeting the nation's energy requirements. The Commission recommends that the General Assembly encourages further development of this industry consistent with Iowa's ability to provide sufficient fuel stock and water. We urge further funding for the development of new biological fuel stocks that will supplement the use of corn and lead to greater bio-diversity. In encouraging the bio-fuels industry, the General Assembly should not relax current environmental standards and should provide the Department of Natural Resources with sufficient resources to handle the increased permitting and enforcement activities that this growing industry will require.

Natural Resource Funding

The Commission commends the General Assembly and former Governor Vilsack for enacting House File 2797 last year providing for a Sustainable Funding Advisory Committee. The legacy of sustained funding for Iowa's soil and water; parks and trails; fish, wildlife and natural areas will benefit Iowans for generations to come. The Commission encourages Governor Culver and the General Assembly to continue this funding conversation and enact the necessary legislation to bring the issue before the people for their vote on a long-term funding solution for Iowa's natural resources.


Conclusion

In addition to the public comments received as part of rulemaking, the Commission receives extensive comments from concerned citizens during the public participation of our meetings. It is clear to the Commission that Iowans are interested and concerned about the environment across a range of issues, from global warming, the effects of CAFOs on the environment, to urban sprawl. Iowans want and deserve clean air and water. The Commission has heard from groups involved in grass roots community environmental activities and from students working on environmental projects. While the challenges ahead are considerable, the

Commission believes that Iowans, working in a partnership of individual, governmental and business efforts, will meet the challenges of environmental stewardship in the 21st Century.

The Commission thanks the Governor and the General Assembly for the opportunity to submit this Report, and invites further inquiry and conversation as the Governor and Legislature deem appropriate.

Submitted by: Iowa Environmental Protection Commission
Dated: January 8, 2007

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